



JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



STEVEN E. CHESTER
DIRECTOR

December 12, 2003

Ms. Susan Carrington
VP and Executive Director of Michigan Dioxin Initiative
The Dow Chemical Company
47 Building
Midland, MI 48667

Dear Ms. Carrington:

SUBJECT: Notice of Deficiency on Remedial Investigation Scopes of Work for
Midland Area Soils and Tittabawassee River and Floodplain;
The Dow Chemical Company (Dow), Midland; MID 000 724 724

Staff of the Michigan Department of Environmental Quality (MDEQ), Waste and Hazardous Materials Division (WHMD), has conducted a technical review of the Remedial Investigation Scopes of Work (SOWs) for Corrective Action Beyond the Facility Boundary for the Midland Area Soils and the Tittabawassee River and Floodplain. Staff of the MDEQ, Remediation and Redevelopment Division, and the United States Environmental Protection Agency (U.S. EPA), Region 5, also participated in this review. These documents were submitted by Dow on August 11, 2003, in accordance with the requirements of Condition XI.B.3. of the Hazardous Waste Management Facility Operating License (Operating License) issued to Dow on June 12, 2003, under Part 111, Hazardous Waste Management, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

Preliminary review comments on the SOWs were provided to you by the WHMD via e-mail on August 14, 2003. These comments addressed key issues that were immediately obvious to the MDEQ upon initial review of the SOWs. The status of Dow's responses to these comments as of November 24, 2003, is documented within the enclosed Notice of Deficiency (NOD).

Condition XI.B.4. of the Operating License requires that "The licensee shall modify the SOW in accordance with or based on the resolution of the Notice of Deficiency and submit a new SOW or revisions to the SOW to the Chief of the Waste and Hazardous Materials Division for approval within 30 days after receipt of the Notice of Deficiency." In light of the upcoming holidays, an additional two weeks beyond the 30 days is being allowed for submittal of the revised SOWs and Interim Response Activities (IRA) Work Plans. Therefore, revised SOWs, including revised implementable IRA Work Plans, that address the technical review comments in the enclosed NOD must be submitted to the WHMD by January 28, 2004. Any request to extend this deadline must be made in accordance with Condition I.G. of the Operating License. Failure to address the cited deficiencies will be considered noncompliance with the Operating License and may subject Dow to enforcement action or license revocation in accordance with Conditions I.E.3. and XI.S. of the Operating License and R 299.9521(1)(a) of the administrative rules promulgated pursuant to Part 111 and Title 40 of the Code of Federal Regulations §270.30(a), which is adopted by reference in R 299.11003.

In order to increase the likelihood that the SOWs would comply with the Operating License requirements and be approvable upon resubmittal, the MDEQ has had several review meetings with Dow. Other goals of this process were to address applicable public concerns and include implementable IRA Work Plans in the SOWs as required by Condition XI.B.3.(a) of the Operating License. These review meetings were held on August 28, September 9, October 8, October 17, October 30, November 6, and November 13, 2003. Additionally, you attended the September 3, 2003, Community Advisory Panel (CAP) meeting to solicit specific suggestions for improving the SOWs from the CAP members. Comments were received from the public at public meetings held on September 22 and 25, 2003, and compiled public comments were sent to you via e-mail on October 21, 2003.

Please recognize that because of the extensive nature of the revisions necessary to develop approvable SOWs, additional comments not identified in the enclosed NOD may become apparent upon review of the revised SOWs.

If you have any questions regarding the technical review comments in the enclosed NOD, please contact Mr. Al Taylor, Hazardous Waste and Radiological Protection Section (HWRPS), WHMD, at 517-335-4799 or by e-mail at taylorab@michigan.gov; Ms. Cheryl Howe, HWRPS, WHMD, at 517-373-9881 or by e-mail at howec@michigan.gov; or you may contact me.

Sincerely,

Original signed by

George W. Bruchmann, Chief
Waste and Hazardous Materials Division
517-373-9723

Enclosure

cc/enc: Mr. Ben Baker, Dow
Mr. David Gustafson, Dow
Ms. Sarah Opperman, Dow
Ms. Lauri Gorton, CH2M Hill
Mr. Gary Dyke, CH2M Hill
Mr. Greg Rudloff, U.S. EPA Region 5
Community Advisory Panel
Mr. Jim Sygo, Deputy Director, MDEQ
Ms. JoAnn Merrick, Senior Executive Assistant to the Director, MDEQ
Ms. Patricia Spitzley, Press Secretary, MDEQ
Mr. Andrew Hogarth, MDEQ
Ms. Liane Shekter Smith, MDEQ/Corrective Action File
Mr. Steve Buda, MDEQ
Ms. De Montgomery/Ms. Ginny Himich, MDEQ
Mr. Terry Walkington/Ms. Trisha Peters, MDEQ
Ms. Brenda Brouillet, MDEQ
Dr. Deb MacKenzie-Taylor, MDEQ
Mr. Al Taylor, MDEQ
Ms. Cheryl Howe, MDEQ